

**NOTICE OF DECISION
PROPERTY LINE ADJUSTMENT CASE NO. 19-032**

APPLICATION: Application of LeeAnn and Steven Margraves to adjust the property lines on a 7.22 acre parcel and a 1.81 acre parcel to create a 4.87 acre parcel a 4.14 acre parcel in a SA (Special Agriculture) zone located at 7624 and 7588 Heckart Lane SE, Salem. (T8S; R3W; Section 27D; tax lots 700, and 1500).

DECISION: Notice is hereby given that the Planning Director for Marion County has **APPROVED** the above described request subject to certain conditions.

EXPIRATION DATE: Title transfer instruments accomplishing the property adjustments shall be recorded by the applicants with the Marion County Clerk by **November 6, 2021**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the request is for land use purposes only. Due to septic, well and drainfield replacement areas, this parcel may not be able to support the proposal. To be sure the subject property can accommodate the proposal the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

1. **Property line adjustment deeds shall be recorded with the Marion County Clerk meeting requirements identified in ORS 92.190(4).** The deeds shall contain the names of the parties, the description of the adjusted lines, references to original recorded documents and signatures of all parties with proper acknowledgment. The deeds shall include a perimeter description of each resulting parcel. **This property line adjustment is not complete until the title transfer instruments accomplishing the property adjustments are recorded by the applicants with the Marion County Clerk.**
2. Deed recording reference numbers shall be noted on the required survey.
3. The applicants shall have the parcels surveyed per ORS 92.060 (7). The survey shall be filed with the County Surveyor and shall contain the notation that the survey is the result of Property Line Adjustment Case 19-032. (Final Plat Instructions enclosed).
4. The resulting lots shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.

ADDITIONAL CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

5. After the property line adjustment has been completed, no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect any covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for obtaining other permits or satisfying any restrictions or conditions thereon. It is recommended that the agencies mentioned in Finding #6 be contacted to identify restrictions or necessary permits.

6. The applicants should contact Marion County Land Development Engineering and Permits (503-584-7714) for additional Engineering Requirements and Advisories listed in Finding #6 below, that may be required.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regula-

tions the Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (Appeal Form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Road NE, Salem, by 5:00 p.m. on **November 6, 2019**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **November 7, 2019** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: The findings and conclusions on which the decision was based are noted below.

1. The subject properties are designated Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture). The primary intent of both this designation and zone is to promote and protect commercial agricultural operations.
2. The properties are located on the south side of Hylo Road SE adjacent to its intersection with Rainbow Drive SE. The 7.22 acre parcel identified as tax lot 1500 contains a dwelling and accessory structures. The 1.81 acre parcel identified as tax lot 700 contains a dwelling and accessory structures. The properties were approved in their current configuration by Property Line Adjustment Case No. 07-15 (PLA07-15). For this reason, both parcels are considered separate and legally created for land use purposes.
3. Surrounding properties in all directions are zoned SA. Properties to the north, west and south are developed with existing dwellings and accessory structures. The property to the east is in farm use.
4. Soil Survey for Marion County, Oregon, indicates 100% of the soils on the subject properties are high value.
5. The applicants propose to adjust the property lines on a 7.22 acre parcel and a 1.81 acre parcel to create a 4.87 acre parcel a 4.14 acre parcel. The property line adjustment will adjust the property lines to reflect the original legal descriptions for the subject parcels prior to PLA07-15. The property line adjustment will have no impact on surrounding properties.
6. Public Works Land Development and Engineering Permits (LDEP) requested that the following Requirement be included in the land use case:
 - A. “Prior to PLA survey approval and the filing of new deeds, record a road maintenance declaratory statement for each parcel. Heckart Lane is a Local Access Road not maintained by the county. The Declaratory statement for each will verify with present owners and make future property owners aware of the road status. PW Engineering is able to prepare the documents at no cost to the Applicants, aside from County Clerk recording fees.”LDEP also requested that the following Advisory be included in the land use case:
 - B. “A seasonal creek leading into Rodgers Creek traverses the subject properties, and both driveways would appear to cross it. It is not known by the writer if culverts are present. Applicants are advised that development should not block natural drainage courses.”

Marion County Surveyors Office commented: “Must be surveyed per ORS 92.060 (7) and the survey submitted for review. Survey checking fee required at the time of review. Property line adjustment deeds shall be recorded with the Marion County Clerk’s Office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the survey map. Per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)]. Marion County Planning requires perimeter descriptions of the resultant properties.”

Marion County Onsite Waste Water Specialist commented that an existing system evaluation is required for Parcel A and a record review is required for Parcel B.

7. The criteria for reviewing lot line adjustments within an SA zone are listed in Chapter 17.137.090(C) of the Marion County Code (MCC). These criteria are as follows:
- A. *When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC17.137.090(A)(1), the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.*
 - B. *If the minimum parcel size in MCC17.137.090(A)(1) is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.*
 - C. *Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.*
 - D. *A property line adjustment may not be used to:*
 - 1. *Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;*
 - 2. *Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or*
 - 3. *Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.*
 - E. *Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.137.030(A) so long as the adjustment:*
 - 1. *Does not increase the any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and*
 - 2. *Does not increase the potential number of dwellings on the resulting parcels.*
8. The existing parcels are less than 80 acres in size prior to the adjustment; therefore the criteria in #7 (a) and (b) do not apply. The applicants are proposing to adjust the property lines to reflect the original legal descriptions for the subject parcels prior to PLA07-15. It appears that the proposal would result in more effective management of the parcels for the property owners. Both parcels already contain a dwelling prior to the adjustment. For these reasons, the criteria in #7(c), (d), and (e) are met.
9. Under MCC 17.172.120(E) property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the required survey.
10. The resulting lots shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval of the Planning Director.
11. Based on the above findings and conclusions, the proposal meets the criteria for a property line adjustment in an SA zone and is, therefore, APPROVED, subject to conditions.

Joe Fennimore
Director-Planning Division

Date: October 22, 2019

If you have any questions please contact Seth Thompson at (503) 588-5038. Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.